

## Maritime Administration, DOT

## § 272.14

(o) *United States* means the states of the United States, the District of Columbia and Puerto Rico.

### § 272.4 Effective date.

The provisions of this part apply to voyages of every Eligible Vessel which terminate on or after September 26, 1990.

### § 272.5 Prior instructions superseded.

The provisions of this part supersede any provisions of MARAD Circular Letters and Accounting Instructions applicable to M&R and dated prior to the effective date of these regulations to the extent that the provisions of this part may be inconsistent with the provisions of such prior instructions.

## Subpart B—Requirements and Procedures for Determining the Condition of Eligible Vessels

### § 272.11 Scope.

This subpart applies to any Eligible Vessel, other than one operating under an ODSA subject to part 294 of this chapter.

### § 272.12 Determining the condition of eligible vessels.

The Operator of an Eligible Vessel shall make the vessel available whenever MARAD may require, in any of the following instances:

(a) At the commencement of the first subsidized voyage, except for a newly constructed vessel which enters subsidized service immediately upon delivery by the shipyard, and for which there is a prior condition survey report. If that subsidized service commences outside the continental limits of the United States, the vessel may be surveyed at the first United States port of call;

(b) At the commencement of the first voyage following the effective date for M&R subsidy established by MARAD, if such M&R rate was not established at the commencement of the vessel's first voyage;

(c) Upon the discontinuance of a M&R subsidy rate;

(d) Upon resumption of subsidized voyages after temporary withdrawal from subsidized operation. The vessel

shall not be considered as having been temporarily withdrawn from subsidized service if it performed unsubsidized voyages in a subsidized service of the Operator;

(e) Upon withdrawal from subsidized service, either temporarily (subject to the provisions of paragraph (d) of § 272.14), or permanently;

(f) During the dry docking period incident to the vessel's American Bureau of Shipping Special Surveys;

(g) Upon termination of the last voyage under the ODSA, or at the end of the contract period, with respect to subsidized vessels in idle status at that time; or

(h) At any other time that MARAD considers to be appropriate.

### § 272.13 Operator's responsibilities.

Whenever MARAD notifies an Operator that a survey of an Eligible Vessel is required under this section, the Operator shall:

(a) Make the vessel immediately available for survey if the vessel is in a port of the United States at the time of notification, or make the vessel available for survey immediately upon arrival at the first port of call in the United States if the vessel is not in a port of the United States at the time of notification; and

(b) Furnish to the Secretary of the Board the following:

(1) A copy of each American Bureau of Shipping report and every other salvage association or damage survey report; and

(2) Copies of certificates or other evidence of compliance with applicable laws, rules, and regulations as to vessel condition and operation, including, but not limited to, those administered by the United States Coast Guard, Environmental Protection Agency, Federal Communications Commission, Public Health Service, or their respective successors, and compliance with all applicable treaties and conventions to which the United States is a signatory.

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### § 272.14 Survey procedures.

(a) *Prior to survey.* Unless otherwise directed by MARAD, the Operator of a vessel which is required to be surveyed

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under this subpart shall contact the ship operations unit of the Region Office in which the survey is to be conducted.

(b) *Operator's assistance to surveyor.* The Operator shall assist the marine surveyor performing the survey for MARAD and shall permit access by that surveyor to all parts of the vessel, its log books, and other official records. The Operator may designate a representative to accompany the marine surveyor during the survey, but no Operator's representative is required to be present during the survey.

(c) *On-subsidy surveys.* An on-subsidy survey consists of the following:

(1) *Vessel survey.* This includes an inspection and the completion of reports by the surveyor, in sufficient detail to reveal a comprehensive picture of the conditions noted.

(2) *On-subsidy survey report.* The on-subsidy survey report consists of:

(i) Ship Survey Report, Form MA-58; and

(ii) As appropriate for the circumstances of the survey and the respective vessel, Forms MA-55 (Turbines and Gears Report); MA-56 (Tooth Contact Report); MA-57 (Drydock Report); and MA-59 (Measurements of Piston Rings and Grooves).

(d) *Off-subsidy surveys.* An off-subsidy survey consists of the following:

(1) *Repair specifications.* The Operator shall prepare and furnish to the appropriate Region Office detailed repair specifications covering all repair work attributable to completed subsidized service.

(2) *Off-subsidy survey report.* The survey report for an off-subsidy survey consists of the repair specifications required by paragraph (c)(1) of this section, and the findings of the Region Office on these specifications after the survey required by paragraph (c)(2) of this section.

## § 272.15 Execution of condition survey reports.

Every survey report shall be signed by:

(a) The Operator's representative, when designated pursuant to § 272.13(a), but only if that representative was in attendance during the survey;

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(b) The Operator's superintendent engineer or equivalent;

(c) The marine surveyor who conducted the survey; and

(d) The appropriate representative of the Region Office for the Region in which the survey was conducted.

## § 272.16 Non-compliance with survey requirements.

MARAD may disallow any one or more M&R claims otherwise eligible for subsidy if an Operator fails to:

(a) Contact the appropriate Region Office as required by § 272.14(a);

(b) Comply with provisions of § 272.14(c)(1) with respect to repair specifications, or to make the vessel reasonably available for inspection before its next sailing; or

(c) Comply with any other requirement specified in this subpart B.

## Subpart C—Eligibility Criteria for M&R Subsidy; Substantiation of M&R Expenses

### § 272.21 General eligibility criteria.

(a) *Eligible maintenance and repairs.* Costs of maintenance and repair are eligible for M&R subsidy participation if they are:

(1) Performed on an Eligible Vessel;

(2) Necessary, because of subsidized operation, for the M&R or replacement of damaged or worn parts of the vessel's hull, machinery, or Permanent Equipment;

(3) Uncompensated by insurance;

(4) Considered fair and reasonable by the Board;

(5) Of Domestic Origin; and

(6) Otherwise eligible in accordance with provisions of this part.

(b) *Off-subsidy survey items.* Any M&R contained in an executed off-subsidy survey report is eligible maintenance and repair if:

(1) Paragraphs (a) (1) through (6) of this section are met;

(2) The work is accomplished by the Operator before or during the next drydocking period (periodic or otherwise); and

(3) The vessel is either owned by the same Operator who owned it at the time of the off-subsidy survey, or ownership was transferred to the Federal